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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/720,477   | 11/25/2003  | Kazukiyo Teshima     | 33856M003           | 9125             |
| 441  | 7590        | 12/30/2005           | EXAMINER            |                  |
| SMITH, GAMBRELL & RUSSELL, LLP<br>1850 M STREET, N.W., SUITE 800<br>WASHINGTON, DC 20036 |             |                      | SAYOC, EMMANUEL     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3746                |                  |

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                |  |
|------------------------------|-----------------|----------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)   |  |
|                              | 10/720,477      | TESHIMA ET AL. |  |
|                              | Examiner        | Art Unit       |  |
|                              | Emmanuel Sayoc  | 3746           |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3 (dependent from claim 1), and 4 (dependent from claim 1) is/are rejected.
- 7) ☒ Claim(s) 2, 3 (dependent from claim 2), 4 (dependent from claim 2), and 5-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/25/03, 9/6/05</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should refer to at least the principle inventive concept of the claimed invention. "A Fitted Assembly for a Bellows Pump," is recommended.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nishio (U.S. 6,322,338 B1).

In Figure 1, Nishio teaches a pump for generating a pumping action based on reciprocal movements of an air cylinder portion (14) to thereby suck and discharge a fluid via valves (16a, 16b), wherein pump components including a fitted assembly (housing components 1, 4, 5, 14) formed by fitting a plurality of members (1, 4, 5, 14) with each other form a structure unit. It is evident that the structure is fastened with appropriate means such that they are constrained on the opposite ends thereof for

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come-off prevention. Otherwise the pump would become disassembles during normal use or operation. Pump components are tightly inserted in an external cover (4).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 3 and 4 (both dependent from claim 1) is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishio, as applied to claim 1, and in further view of Neal et al. (U.S. 4,442,957).

Nishio sets forth a device as described above, which is substantially analogous to the claimed invention. The top end of external cover (4) constitutes a stopper portion for stopping the movement of pump elements therein and the air cylinder portion (14). The Nishio device differs from the claimed invention in that there is no explicit teaching of the external cover formed with a thread on an inside thereof for threadedly engaging a thread formed on an outside of the pump body. Within the art, threaded attachments of pump housing components were well known in the art for facilitating ease in assembly and disassembly without the need for separate fasteners. Neal et al. in Figure 1 teaches an analogous bellows pump with an external cover (26) formed with a thread on an inside thereof for threadedly engaging a thread formed on an outside of the pump body (23). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the Nishio device by, incorporating the threaded attachment of the housing components, as taught by Neal et al., in order to advantageously ease assembly and disassembly without the need for separate fasteners.

With respect the pump components being made of resin, or plastic compounds, the examiner takes official notice that it was well known in the art to use resin or plastic

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material for pump housings and covers do to plastics economic, lightweight, insulative, and formability characteristics.

***Allowable Subject Matter***

8. Claims 2, 3 (dependent from claim 2), 4 (dependent from claim 2), and 5-10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to bellows pumps.

U.S. Pat. 20021/0014291, 6,364,640 and 6,954,761 to Nishio et al., 6,488,487 to Minato – teach the general nature of the art.

***Contact Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Sayoc whose telephone number is (571) 272 4832. The examiner can normally be reached on M-F 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on (571) 272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Emmanuel Sayoc  
Examiner  
Art Unit 3746

ECS